



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

October 7, 1998

Mr. Kevin D. Pagan
Assistant City Attorney
City of McAllen
P.O. Box 220
McAllen, Texas 78505-0220

OR98-2376

Dear Mr. Pagan:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 118591.

The City of McAllen (the "city") received a request for information relating to the investigation of a specific traffic accident. You state that you have released "front page information" in accordance with section 552.108(c) of the Government Code and *Houston Chronicle Publishing Company v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). You claim, however, that the remaining requested information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

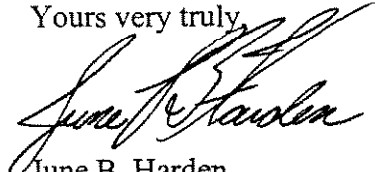
The Open Records Act (the "act") imposes a duty on governmental bodies seeking an open records decision pursuant to section 552.301 to submit that request to the attorney general within ten days after the governmental body's receipt of the request for information. The time limitation found in section 552.301 is an express legislative recognition of the importance of having public information produced in a timely fashion. *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381 (Tex. App.--Austin 1990, no writ). When a request for an open records decision is not made within the time period prescribed by section 552.301, the requested information is presumed to be public. *See* Gov't Code § 552.302. This presumption of openness can only be overcome by a compelling demonstration that the information should not be made public. *See, e.g.*, Open Records Decision No. 150 (1977) (presumption of openness overcome by a showing that the information is made confidential by another source of law or affects third party interests).

It appears, in this instance, that the request for information was sent via facsimile to your office on June 11, 1998. You sought an open records decision from this office on July 23, 1998. Consequently, you have not met your burden under section 552.301 of the act. *See Gov't Code 552.308(1).*

In the absence of a demonstration that the information is confidential by law or that other compelling reasons exist as to why the information should not be made public, you must release the information. Open Records Decision No. 195 (1978). *See also* Gov't Code § 552.352 (the distribution of confidential information is a criminal offense); Open Records Decision 586 (1991) (need of another governmental body to withhold requested information may provide compelling reason for nondisclosure).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,



June B. Harden
Assistant Attorney General
Open Records Division

JBH/ch

Ref.: ID# 118591

Enclosures: Submitted documents

cc: Mr. Jim Denison
Adams & Graham, L.L.P.
P.O. Drawer 1429
Harlingen, Texas 78551
(w/o enclosures)